

SECOND REGULAR SESSION

SENATE BILL NO. 1031

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS BRAY, DAYS, DOUGHERTY AND GOODE.

Read 1st time January 12, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

3183S.04I

AN ACT

To repeal sections 300.330, 300.410, 302.302, 302.304, 302.309, 304.009, 307.180, 565.024, 565.060, and 565.070, RSMo, and to enact in lieu thereof eighteen new sections relating to motor vehicle and bicycle safety, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 300.330, 300.410, 302.302, 302.304, 302.309, 304.009, 307.180, 565.024, 565.060, and 565.070, RSMo, are repealed and eighteen new sections enacted in lieu thereof, to be known as sections 300.330, 300.410, 300.411, 302.302, 302.304, 302.309, 304.009, 304.675, 304.677, 304.678, 304.679, 307.180, 307.189, 307.191, 537.038, 565.024, 565.060, and 565.070, to read as follows:

300.330. The driver of a **motor** vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway. **A designated bicycle lane shall not be obstructed by a parked or standing motor vehicle or other stationary object. A motor vehicle may be driven in a designated bicycle lane only for the purpose of a lawful maneuver to cross the lane or provide for safe travel. In making an otherwise lawful maneuver that requires traveling in or crossing a designated bicycle lane, the driver of a motor vehicle shall yield to any bicycle in the lane.**

300.410. Notwithstanding the foregoing provisions of sections 300.155 to 300.410, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian [upon any roadway and shall give warning by sounding the horn when necessary], **any person propelling or a passenger on a human powered vehicle, or any person operating or a passenger on a motorcycle,** and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

300.411. When overtaking and passing a bicycle proceeding in the same direction, a person driving a motor vehicle shall exercise the highest degree of

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

care by leaving a safe distance between the motor vehicle and the bicycle of not less than three feet until the motor vehicle is safely past the overtaken bicycle.

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points
(except any violation of municipal stop sign ordinance where no accident is involved 1 point)

(2) Speeding
In violation of a state law 3 points
In violation of a county or municipal ordinance 2 points

(3) Leaving the scene of an accident in violation of section 577.060, RSMo 12 points
In violation of any county or municipal ordinance 6 points

(4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo 4 points
In violation of a county or municipal ordinance 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:
(a) For the first conviction 2 points
(b) For the second conviction 4 points
(c) For the third conviction 6 points

(6) Operating with a suspended or revoked license prior to restoration of operating privileges 12 points

(7) Obtaining a license by misrepresentation 12 points

(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs 8 points

(9) For the second or subsequent

conviction of any of the following offenses
however combined: driving while in an
intoxicated condition, driving under the
influence of controlled substances or drugs
or driving with a blood alcohol content of
eight-hundredths of one percent or more
by weight 12 points

(10) For the first conviction for
driving with blood alcohol content
eight-hundredths of one percent or more
by weight
In violation of state law 8 points
In violation of a county or municipal
ordinance or federal law or regulation 8 points

(11) Any felony involving the use
of a motor vehicle 12 points

(12) Knowingly permitting unlicensed
operator to operate a motor vehicle 4 points

(13) For a conviction for failure to
maintain financial responsibility pursuant
to county or municipal ordinance or
pursuant to section 303.025, RSMo 4 points

**(14) Misdemeanor assault in
the third degree involving the use of
a motor vehicle 8 points**

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. Additional points for any violation listed in subsection 1 of this section shall be assessed under the following conditions:

(1) [An additional] Two points [shall be assessed] when [personal injury or] property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

(2) **Two points when any violation, except a speeding violation which is over the posted speed limit by five miles per hour or less, occurs in a school zone as defined in subsection 1 of section 304.675, RSMo.**

(3) **Four points when physical injury results from the violation and if found**

to be warranted and certified by the reporting court, or upon conviction for operation of a vehicle causing injury as provided in subsection 1 of section 304.679, RSMo;

(4) Eight points when serious physical injury to another person, as defined in subdivision (28) of section 556.061, RSMo, results from the violation and if found to be warranted and certified by the reporting court, or upon conviction for operation of a vehicle causing serious physical injury as provided in subsection 2 of section 304.679, RSMo, or upon conviction for assault in the third degree involving the use of a motor vehicle.

(5) Twelve points when death of another person results from the violation and if found to be warranted and certified by the reporting court, or upon conviction for operation of a vehicle causing death.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to **subdivisions (1) and (2) of subsection 3 of this section. If a stay is granted of points assessed for a violation pursuant to subdivision (1), (2), or (4) of subsection 1 of this section, additional points related to that violation pursuant to subdivisions (3), (4), and (5) of subsection 3 of this section shall nevertheless be assessed.** For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month

period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

302.304. 1. The director shall notify by ordinary mail any operator of the point value charged against the operator's record when the record shows four or more points have been accumulated in a twelve-month period.

2. In an action to suspend or revoke a license or driving privilege under this section points shall be accumulated on the date of conviction. No case file of any conviction for a driving violation for which points may be assessed pursuant to section 302.302 may be closed until such time as a copy of the record of such conviction is forwarded to the department of revenue.

3. The director shall suspend the license and driving privileges of any person whose driving record shows the driver has accumulated eight points in eighteen months.

4. The license and driving privilege of any person whose license and driving privilege have been suspended under the provisions of sections 302.010 to 302.540 except those persons whose license and driving privilege have been suspended under the provisions of subdivision (8) of subsection 1 of section 302.302 or has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 and who has filed proof of financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, and is otherwise eligible, shall be reinstated as follows:

(1) In the case of an initial suspension, thirty days after the effective date of the suspension;

(2) In the case of a second suspension, sixty days after the effective date of the suspension;

(3) In the case of the third and subsequent suspensions, ninety days after the effective date of the suspension.

Unless proof of financial responsibility is filed with the department of revenue, a suspension shall continue in effect for two years from its effective date.

5. The period of suspension of the driver's license and driving privilege of any person under the provisions of subdivision (8) of subsection 1 of section 302.302 or who has accumulated sufficient points together with a conviction under subdivision (10) of subsection 1 of section 302.302 shall be thirty days, followed by a sixty-day period of restricted driving privilege as defined in section 302.010. Upon completion of such period of restricted driving privilege, upon compliance with other requirements of law and upon filing of proof of

financial responsibility with the department of revenue, in accordance with chapter 303, RSMo, the license and driving privilege shall be reinstated.

6. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's driving privilege and license shall be resuspended.

7. The director shall revoke the license and driving privilege of any person when the person's driving record shows such person has accumulated twelve points in twelve months or eighteen points in twenty-four months or twenty-four points in thirty-six months. **The revocation period of any person whose license and driving privilege have been revoked under the provision of subdivision (11) of subsection 1 of section 302.302 shall be one year, plus one year in which limited driving privilege may be permitted, if the person's driving record shows no suspensions or revocations during the immediately preceding seven years; five years, plus two years in which limited driving privilege may be permitted, if the person's driving record shows one suspension or revocation during the immediately preceding seven years; and ten years, plus three years in which limited driving privilege may be permitted, if the person's driving record shows more than one suspension or revocation during the immediately preceding seven years. At the end of the revocation period the revocation shall be terminated by a notice from the director of revenue, if the person has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible.** The revocation period of any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 **other than subdivision (11) of subsection 1 of section 302.302** and who has filed proof of financial responsibility with the department of revenue in accordance with chapter 303, RSMo, and is otherwise eligible, shall be terminated by a notice from the director of revenue after one year from the effective date of the revocation. Unless proof of financial responsibility is filed with the department of revenue, except as provided in subsection 2 of section 302.541, the revocation shall remain in effect for [a period of two years from its effective date] **an additional year**. If the person fails to maintain proof of financial responsibility in accordance with chapter 303, RSMo, the person's license and driving privilege shall be rerevoked. Any person whose license and driving privilege have been revoked under the provisions of sections 302.010 to 302.540 shall, upon receipt of the notice of termination of the revocation from the director, pass the complete driver examination and apply for a new license before again operating a motor vehicle upon the highways of this state.

8. If, prior to conviction for an offense that would require suspension or revocation of a person's license under the provisions of this section, the person's total points accumulated are reduced, pursuant to the provisions of section 302.306, below the number of points required for suspension or revocation pursuant to the provisions of this section, then

the person's license shall not be suspended or revoked until the necessary points are again obtained and accumulated.

9. If any person shall neglect or refuse to surrender the person's license, as provided herein, the director shall direct the state highway patrol or any peace or police officer to secure possession thereof and return it to the director.

10. Upon the issuance of a reinstatement or termination notice after a suspension or revocation of any person's license and driving privilege under the provisions of sections 302.010 to 302.540, the accumulated point value shall be reduced to four points, except that the points of any person serving as a member of the armed forces of the United States outside the limits of the United States during a period of suspension or revocation shall be reduced to zero upon the date of the reinstatement or termination of notice. It shall be the responsibility of such member of the armed forces to submit copies of official orders to the director of revenue to substantiate such overseas service. Any other provision of sections 302.010 to 302.540 to the contrary notwithstanding, the effective date of the four points remaining on the record upon reinstatement or termination shall be the date of the reinstatement or termination notice.

11. No credit toward reduction of points shall be given during periods of suspension or revocation or any period of driving under a limited driving privilege granted by a court or the director of revenue.

12. Any person or nonresident whose license or privilege to operate a motor vehicle in this state has been suspended or revoked under this or any other law shall, before having the license or privilege to operate a motor vehicle reinstated, pay to the director a reinstatement fee of twenty dollars which shall be in addition to all other fees provided by law.

[13. Notwithstanding any other provision of law to the contrary, if after two years from the effective date of any suspension or revocation issued under this chapter, the person or nonresident has not paid the reinstatement fee of twenty dollars, the director shall reinstate such license or privilege to operate a motor vehicle in this state.]

[14.] **13.** No person who has had a license to operate a motor vehicle suspended or revoked as a result of an assessment of points for a violation under subdivision (8), (9) or (10) of subsection 1 of section 302.302 shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 302.010, or a program determined to be comparable by the department of mental health. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on

a printed form provided by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, RSMo, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

[15.] 14. The fees for the program authorized in subsection 14 of this section, or a portion thereof to be determined by the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee in an amount to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010 and section 577.001, RSMo, or a program determined to be comparable by the department of mental health. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rate established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

[16.] 15. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection

of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

16. No person who has had a license to operate a motor vehicle suspended or revoked shall have that license reinstated until such person has participated in and successfully completed a driver-improvement program. To create eligibility for license reinstatement, the person must enter and complete the driver-improvement program after the date that the license was suspended or revoked. The driver-improvement program shall meet or exceed the standards of the National Safety Council's twelve-hour "Attitudinal Dynamics of Driving" course, shall include substantial content covering safe practices and attitudes concerning vehicle interaction with pedestrians, bicyclists, and motorcyclists, and shall cover state and local law concerning pedestrians, bicyclists, and motorcyclists, and shall cover state and local law concerning pedestrians, bicyclists, and motorcyclists and their interaction with other vehicles.

302.309. 1. Whenever any license is suspended pursuant to sections 302.302 to 302.309, the director of revenue shall return the license to the operator immediately upon the termination of the period of suspension and upon compliance with the requirements of chapter 303, RSMo.

2. Any operator whose license is revoked pursuant to these sections, upon the termination of the period of revocation, shall apply for a new license in the manner prescribed by law.

3. (1) All circuit courts and the director of revenue shall have jurisdiction to hear applications and make eligibility determinations granting limited driving privileges. Any application may be made in writing to the director of revenue and the person's reasons for requesting the limited driving privilege shall be made therein.

(2) When any court of record having jurisdiction or the director of revenue finds that an operator is required to operate a motor vehicle in connection with any of the following:

- (a) A business, occupation, or employment;
- (b) Seeking medical treatment for such operator;
- (c) Attending school or other institution of higher education;
- (d) Attending alcohol or drug treatment programs; or

(e) Any other circumstance the court or director finds would create an undue hardship on the operator; the court or director may grant such limited driving privilege as the circumstances of the case justify if the court or director finds undue hardship would result to the individual, and while so operating a motor vehicle within the restrictions and limitations of the limited driving privilege the driver shall not be guilty of operating a motor vehicle without a valid license.

(3) An operator may make application to the proper court in the county in which such

operator resides or in the county in which is located the operator's principal place of business or employment. Any application for a limited driving privilege made to a circuit court shall name the director as a party defendant and shall be served upon the director prior to the grant of any limited privilege, and shall be accompanied by a copy of the applicant's driving record as certified by the director. Any applicant for a limited driving privilege shall have on file with the department of revenue proof of financial responsibility as required by chapter 303, RSMo. Any application by a person who transports persons or property as classified in section 302.015 may be accompanied by proof of financial responsibility as required by chapter 303, RSMo, but if proof of financial responsibility does not accompany the application, or if the applicant does not have on file with the department of revenue proof of financial responsibility, the court or the director has discretion to grant the limited driving privilege to the person solely for the purpose of operating a vehicle whose owner has complied with chapter 303, RSMo, for that vehicle, and the limited driving privilege must state such restriction. When operating such vehicle under such restriction the person shall carry proof that the owner has complied with chapter 303, RSMo, for that vehicle.

(4) The court order or the director's grant of the limited driving privilege shall indicate the termination date of the privilege, which shall be not later than the end of the period of suspension or revocation. A copy of any court order shall be sent by the clerk of the court to the director, and a copy shall be given to the driver which shall be carried by the driver whenever such driver operates a motor vehicle. The director of revenue upon granting a limited driving privilege shall give a copy of the limited driving privilege to the applicant. The applicant shall carry a copy of the limited driving privilege while operating a motor vehicle. A conviction which results in the assessment of points pursuant to section 302.302, other than a violation of a municipal stop sign ordinance where no accident is involved, against a driver who is operating a vehicle pursuant to a limited driving privilege terminates the privilege, as of the date the points are assessed to the person's driving record. If the date of arrest is prior to the issuance of the limited driving privilege, the privilege shall not be terminated. The director shall notify by ordinary mail the driver whose privilege is so terminated.

(5) Except as provided in subdivision (6) of this subsection **and in subsection 7 of section 302.304**, no person is eligible to receive a limited driving privilege who at the time of application for a limited driving privilege has previously been granted such a privilege within the immediately preceding five years, or whose license has been suspended or revoked for the following reasons:

(a) A conviction of violating the provisions of section 577.010 or 577.012, RSMo, or any similar provision of any federal or state law, or a municipal or county law where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing, until the person has completed the first thirty days of a suspension

or revocation imposed pursuant to this chapter;

(b) A conviction of any felony in the commission of which a motor vehicle was used;

(c) Ineligibility for a license because of the provisions of subdivision (1), (2), (4), (5), (6), (7), (8), (9), (10) or (11) of section 302.060;

(d) Because of operating a motor vehicle under the influence of narcotic drugs, a controlled substance as defined in chapter 195, RSMo, or having left the scene of an accident as provided in section 577.060, RSMo;

(e) Due to a revocation for the first time for failure to submit to a chemical test pursuant to section 577.041, RSMo, or due to a refusal to submit to a chemical test in any other state, if such person has not completed the first ninety days of such revocation;

(f) Violation more than once of the provisions of section 577.041, RSMo, or a similar implied consent law of any other state;

(g) Disqualification of a commercial driver's license pursuant to sections 302.700 to 302.780, however, nothing in this subsection shall prevent a person holding a commercial driver's license who is suspended or revoked as a result of an action occurring while not driving a commercial motor vehicle or driving for pay, but while driving in an individual capacity as an operator of a personal vehicle from applying for a limited driving privilege to operate a commercial vehicle, if otherwise eligible for such limited privilege; or

(h) Due to a suspension pursuant to subsection 2 of section 302.525 and who has not completed the first thirty days of such suspension, provided the person is not otherwise ineligible for a limited driving privilege; or due to a revocation pursuant to subsection 2 of section 302.525 if such person has not completed such revocation; or

(i) A conviction for assault in the third degree as provided in section 565.070, RSMo, involving the use of a motor vehicle.

(6) (a) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of ten years, as prescribed in subdivision (9) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least three years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding three years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state.

(b) Provided that pursuant to the provisions of this section, the applicant is not otherwise ineligible for a limited driving privilege or convicted of involuntary manslaughter while operating a motor vehicle in an intoxicated condition, a circuit court or the director may, in the manner prescribed in this subsection, allow a person who has had such person's

license to operate a motor vehicle revoked where that person cannot obtain a new license for a period of five years because of two convictions of driving while intoxicated, as prescribed in subdivision (10) of section 302.060, to apply for a limited driving privilege pursuant to this subsection if such person has served at least two years of such disqualification or revocation. Such person shall present evidence satisfactory to the court or the director that such person has not been convicted of any offense related to alcohol, controlled substances or drugs during the preceding two years and that the person's habits and conduct show that the person no longer poses a threat to the public safety of this state. Any person who is denied a license permanently in this state because of an alcohol-related conviction subsequent to a restoration of such person's driving privileges pursuant to subdivision (9) of section 302.060 shall not be eligible for limited driving privilege pursuant to the provisions of this subdivision.

(7) No person is eligible to receive a limited driving privilege until that person has participated in and successfully completed a driver-improvement program as specified in subsection 16 of section 302.304.

4. Any person who has received notice of denial of a request of limited driving privilege by the director of revenue may make a request for a review of the director's determination in the circuit court of the county in which the person resides or the county in which is located the person's principal place of business or employment within thirty days of the date of mailing of the notice of denial. Such review shall be based upon the records of the department of revenue and other competent evidence and shall be limited to a review of whether the applicant was statutorily entitled to the limited driving privilege.

5. The director of revenue shall promulgate rules and regulations necessary to carry out the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.

304.009. 1. Notwithstanding the provisions of section 304.010, a speeding violation of section 304.010 which is over the posted speed limit by five miles per hour or less is an infraction. The court costs assessed for a violation of this section shall be the same as the costs assessed pursuant to section 304.010.

2. No points shall be assessed pursuant to section 302.302, RSMo, for any speeding violation which is over the posted speed limit by five miles per hour or less, **except a speeding violation that occurs within a school zone as defined in subsection 1 of**

section 304.675 during the hours that the school zone speed limit is in effect.

3. Notwithstanding any provisions of law to the contrary, a court may issue a warrant for failure to appear for any violation which is classified as an infraction.

304.675. 1. The governing body of a county or municipality may establish a maximum speed limit within a school zone not to exceed twenty miles per hour. Such speed limit shall be in force only during those times thirty minutes before, during, and thirty minutes after the periods of time when students are arriving at a regularly scheduled school session and leaving a regularly scheduled school session. As used in this section, the term "school zone" means school property on which a school building is located and the area adjacent to the school property that is designated by signs showing the posted limit. The state highways and transportation commission shall approve a twenty mile per hour speed limit in a school zone on state or federal highways before the same shall become effective.

2. The governing body of a county or municipality may establish a speed limit within a school zone lower than twenty miles per hour if it finds, in conjunction with the school board, that a lower limit is needed to promote public safety, and the governing body of a county or municipality may extend the hours which the school zone speed limit is in force, if it finds, in conjunction with the school board, that extended hours for the school zone speed limit are needed to promote public safety. The establishment of any speed limit within a school zone lower than twenty miles per hour shall be in accordance with sections 304.010, 304.120, and 304.130.

3. The governing body of a county or municipality may provide that fines for any traffic violation within a school zone during the hours when the school zone speed limit is in effect shall be double the usual amount, and may erect signs in school zones indicating "Fines Double in School Zones".

304.677. Notwithstanding any other provisions of the law to the contrary, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian, any person propelling or a passenger on a human powered vehicle, or any person operating or a passenger on a motorcycle, and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated, or intoxicated person.

304.678. When overtaking and passing a bicycle proceeding in the same direction, a person driving a motor vehicle shall exercise the highest degree of care by leaving a safe distance between the motor vehicle and the bicycle, and in no event less than three feet, until the motor vehicle is safely past the overtaken bicycle.

304.679. 1. A person is guilty of operation of a motor vehicle causing physical injury when, in the course of driving or operating a motor vehicle in violation of any provision of this chapter, or any moving violation of a state law or county or municipal or federal traffic ordinance or regulation, the person's driving or operation of the motor vehicle causes physical injury to another person.

2. A person is guilty of operation of a vehicle causing serious physical injury when, in the course of driving or operating a motor vehicle in violation of any provision of this chapter, or any moving violation of a state law or county or municipal or federal traffic ordinance or regulation, the person's driving or operation of the vehicle causes serious physical injury to another person.

3. A person is guilty of operation of a vehicle causing death when, in the course of driving or operating a motor vehicle in violation of any provision of this chapter, or any moving violation of a state law or county municipal or federal traffic ordinance or regulation, the person's driving or operation of the vehicle causes the death of another person.

4. For purposes of this section, physical injury and serious injury shall be as defined in subdivisions (20) and (28) of section 556.061, RSMo, respectively.

307.180. As used in sections 307.180 to 307.193:

(1) The word "bicycle" shall mean every vehicle propelled solely by human power upon which any person may ride, having two [tandem] or more wheels, every foot or hand-propelled vehicle, irrespective of the number of wheels in contact with the ground, except scooters and similar devices and except foot or hand-propelled vehicles primarily intended for children six year of age or younger;

(2) The term "motorized bicycle" shall mean any two- or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground. A motorized bicycle shall be considered a motor vehicle for purposes of any homeowners' or renters' insurance policy.

307.189. Any provision of section 307.188 to the contrary notwithstanding:

(1) A person operating a bicycle or human-powered vehicle approaching a stop sign shall slow down and, if required for safety, stop before entering the intersection. After slowing to a reasonable speed or stopping, the person shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the person is moving across or within the intersection or junction of highways, except that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a turn or proceed through the intersection without

stopping;

(2) A person operating a bicycle or human-powered vehicle approaching a steady red traffic-control signal shall stop before entering the intersection, except that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a right-hand turn without stopping or may cautiously make a left-hand turn onto a one-way highway without stopping.

307.191. Bicycle travel on the shoulder of the roadway shall be permitted except where local regulations or regulations established by the state highways and transportation commission prohibit such shoulder travel. Places where shoulder bicycle travel is prohibited shall be clearly marked with signs. Where bicycle travel on shoulders is permitted, signs shall not be required, except on limited access highways, where bicycle travel may be permitted only on shoulders.

537.038. Every driver of a motor vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian, any person propelling or a passenger on a human powered vehicle, or any person operating or a passenger on a motorcycle and thereby causing bodily injury or death to such person.

565.024. 1. A person commits the crime of involuntary manslaughter in the first degree if [he] the person:

(1) Recklessly causes the death of another person; or

(2) While in an intoxicated condition operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause the death of any person or;

(3) **In operating a motor vehicle, recklessly causes the death of another person. For purposes of this subdivision, recklessness shall be presumed if it is shown that the person knowingly operated a motor vehicle in a manner inconsistent with the requirement of 304.678, or otherwise in an unsafe manner, or in a manner inconsistent with the requirements of local, state, or federal traffic law. The person's prior record of traffic violations and collisions may be used as evidence which may establish a pattern, and thus the person's knowledge of habitual unsafe or illegal vehicle operation and conscious disregard of the substantial and unjustifiable risk of such operation.**

2. Involuntary manslaughter in the first degree is a class C felony.

3. A person commits the crime of involuntary manslaughter in the second degree if:

(1) [He] **The person** acts with criminal negligence to cause the death of any person;

or

(2) **The person operates a motor vehicle in a manner that violates local, state, or federal traffic law or regulation, and such violation causes or substantially contributes to the death of any person.**

4. Involuntary manslaughter in the second degree is a class D felony.

565.060. 1. A person commits the crime of assault in the second degree if [he] **the person:**

(1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or

(2) Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or

(3) Recklessly causes serious physical injury to another person; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause physical injury to any other person than himself; or

(5) Recklessly causes physical injury to another person by means of discharge of a firearm; or

(6) In operating a motor vehicle, recklessly causes serious physical injury to another person. For purposes of this subdivision, recklessness shall be presumed if it is shown that the person knowingly operated a motor vehicle in a manner inconsistent with the requirement of section 304.678 that a motorist leave a distance of at least three feet when overtaking a bicycle traveling in the same direction.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

3. Assault in the second degree is a class C felony.

565.070. 1. A person commits the crime of assault in the third degree if:

(1) The person attempts to cause or recklessly causes physical injury to another person; or

(2) With criminal negligence the person causes physical injury to another person by means of a deadly weapon; or

(3) The person purposely places another person in apprehension of immediate physical injury; or

(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or

(6) The person knowingly causes physical contact with an incapacitated person, as defined in section 475.010, RSMo, which a reasonable person, who is not incapacitated, would consider offensive or provocative; or

(7) In operating a motor vehicle, the person recklessly causes physical injury to another person; or

(8) The person operates a motor vehicle in a manner that violates local,

state, or federal traffic law or regulation, and such violation causes or substantially contributes to the serious physical injury of another person.

For purposes of subdivision (3) of this subsection, purposefulness shall be presumed if it is shown that the person knowingly operated a motor vehicle in a manner inconsistent with the requirement of section 304.678, RSMo, that a motorist leave a distance of at least three feet when overtaking a bicycle traveling in the same direction.

For purposes of subdivision (7) of this subsection, recklessness shall be presumed if it is shown that the person knowingly operated a motor vehicle in a manner inconsistent with the requirement of local, state, or federal traffic law. The person's prior record of traffic violations and collisions may be used as evidence which may establish a pattern of unsafe or illegal operation and the person's awareness of this pattern, and thus the person's knowledge of habitual unsafe or illegal vehicle operation and conscious disregard of the substantial and unjustifiable risk of such operation.

2. Except as provided in subsections 3 and 4 of this section, assault in the third degree is a class A misdemeanor.

3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this section is guilty of a class C misdemeanor.

4. A person who has pled guilty to or been found guilty of the crime of assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of assault in the third degree when a class A misdemeanor. The offenses described in this subsection may be against the same family or household member or against different family or household members.

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